

KAUA'I PLANNING COMMISSION  
REGULAR MEETING  
May 22, 2018

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair Apisa at 9:07 a.m., at the Lihu'e Civic Center, Mo'ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Chair Donna Apisa  
Vice Chair Glenda Nogami Streufert  
Ms. Kanoe Ahuna  
Mr. Roy Ho  
Mr. Kimo Keawe

Absent and Excused:  
Mr. Sean Mahoney

The following staff members were present: Planning Department – Director Michael Dahilig, Dale Cua, Jody Galinato, Leslie Takasaki; Office of the County Attorney – Deputy County Attorney Jodi Higuchi Sayegusa; Office of Boards and Commissions – Administrator Nicholas R. Courson (*left at 10:20 a.m.*), Commission Support Clerk Darcie Agaran

Discussion of the meeting, in effect, ensued:

**CALL TO ORDER**

Chair Apisa called the meeting to order at 9:07 a.m.

**ROLL CALL**

Planning Director Michael Dahilig: Commissioner Ho.

Mr. Ho: Here.

Mr. Dahilig: Vice Chair Streufert.

Ms. Nogami Streufert: Here.

Mr. Dahilig: Commissioner Mahoney. Commissioner Keawe.

Mr. Keawe: Here.

Mr. Dahilig: Commissioner Ahuna.

Ms. Ahuna: Here.

Mr. Dahilig: Chair Apisa.

Chair Apisa: Here.

Mr. Dahilig: Madame Chair, you have five members present this morning.

### **ADDITION OF SUBDIVISION COMMITTEE MEMBER(S)**

Mr. Dahilig: We have Item C, which is the Addition of Subdivision Committee Members. I think this was left for just discussion from the last meeting.

Chair Apisa: Yes. Were we going to officially add?

Deputy County Attorney Jodi Higuchi Sayegusa: We handled this; we did handle the election.

Mr. Dahilig: Okay, thank you.

Ms. Higuchi Sayegusa: So no action needed.

### **APPROVAL OF AGENDA**

Mr. Dahilig: Item D – this is the approval of the agenda. The Department would recommend approving the agenda with the exception of action for Item G.2.b. – this is the Montessori application. Ms. Galinato needs to represent me at the Climate Change Commission meeting in Honolulu and needs to catch a flight, so I would ask that that item be moved up, both for hearing and for action, towards the beginning of the agenda before reaching the Consent Calendar.

Chair Apisa: Do we have a motion to approve the amended agenda?

Ms. Nogami Streufert: I move to approve the amended agenda.

Ms. Ahuna: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 5:0.

Mr. Dahilig: Thank you.

### **MINUTES of the meeting(s) of the Planning Commission**

Regular Meeting of March 27, 2018

Regular Meeting of April 10, 2018

Regular Meeting of April 24, 2018  
Special Meeting of April 24, 2018

Mr. Dahilig: We are on Item E. These are the minutes of a number of Planning Commission meetings, specifically Regular Meeting of March 27<sup>th</sup>, April 10<sup>th</sup>, April 24<sup>th</sup>, and a Special Meeting of April 24, 2018.

Ms. Ahuna: Move to approve the minutes of the meetings of the Planning Commission for March 27<sup>th</sup>, April 10<sup>th</sup>, April 24<sup>th</sup>, and Special Meeting (of) April 24<sup>th</sup>.

Mr. Keawe: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 5:0.

Mr. Dahilig: Thank you, Madame Chair.

**RECEIPT OF ITEMS FOR THE RECORD**

There were no items to receive for the record.

**HEARINGS AND PUBLIC COMMENT**

Continued Agency Hearing

Class IV Zoning Permit Z-IV-2018-6, Use Permit U-2018-5 and Special Permit SP-2018-3 to allow improvements to the Kīlauea Wells No. 1 and 2 facility that includes construction of a new generator shelter, and replacement of an existing pump and motor control center, on a parcel situated on the mauka side of Kūhiō Highway in Kīlauea, approx. 3,500 ft. southwest of the terminus of Kuawa Road, further identified as Tax Map Key: (4) 5-2-002:013, and containing a total area of 2.737 acres = County of Kauaʻi, Department of Water. [Director's Report received 3/27/18, deferred 4/10/18.]

Mr. Dahilig: We are now on Item G. These are the Continued Agency Hearings. Item G.1.a. – this is Class IV Zoning Permit Z-IV-2018-6, Use Permit U-2018-5, and Special Permit SP-2018-3. This is to allow improvements to the Kīlauea Wells No. 1 and No. 2 facility that includes the construction of a new generator shelter, and replacement of an existing pump and motor control center, on a parcel situated on the mauka side of Kūhiō Highway in Kīlauea, approximately 3,500 feet southwest of the terminus of Kuawa Road, further identified as Tax Map Key: (4) 5-2-002 Parcel 013, and containing a total area of 2.737 acres. The applicant is the County of Kauaʻi, Department of Water. There was a Director's Report received on 3/27/18 and this matter was deferred last month.

Madame Chair, we make a recommendation to open the Continued Agency Hearing at this time.

Chair Apisa: We will go ahead and open the Continued Agency Hearing.

Mr. Dahilig: Madame Chair, I do not have anybody signed up to testify on this particular agenda item. The Department would recommend making a final call for any other testifiers for this continued agency hearing and close the agency hearing at this time.

Chair Apisa: Anyone here care to testify on this matter? Seeing none.

Mr. Keawe: I move to close the agency hearing on this item.

Ms. Nogami Streufert: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 5:0.

Mr. Dahilig: Thank you, Madame Chair.

#### New Agency Hearing

Special Management Area Use Permit SMA(U)-2018-7 to construct a single-family residence on a parcel situated on the mauka side of 'Aliomanu Road in Anahola, approx. ¾-mile from its intersection with Kūhiō Highway, further identified as 4721 'Aliomanu Road, Tax Map Key: (4) 4-8-013:018, and containing a total land area of 18,745 square feet = Gregory A. Strickland & Susan T. Strickland, Trustees.

Mr. Dahilig: We are on Item G.2.a. This is a new agency hearing for Special Management Area Use Permit SMA(U)-2018-7. This is to construct a single-family residence on a parcel situated on the mauka side of 'Aliomanu Road in Anahola, approximately ¾-mile from its intersection with Kūhiō Highway, further identified as 4721 'Aliomanu Road, Tax Map Key: (4) 4-8-013 Parcel 018, and containing a total land area of 18,745 square feet. The applicants are Gregory A. Strickland and Susan Strickland, Trustees. There is a Director's Report pertaining to this matter.

Madame Chair, the Department recommends opening the agency hearing at this time.

Chair Apisa: We will go ahead and open this new agency hearing.

Mr. Dahilig: Madame Chair, I do not have anybody signed up for this particular agency hearing. The Department would recommend making a final call for any other testifiers for this hearing and close the agency hearing at this time.

Chair Apisa: Anyone here wishing to testify on this – SMA(U)-2018-7? Hearing none.

Ms. Nogami Streufert: I move to close the agency hearing.

Mr. Keawe: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Agency hearing is closed. Motion carries 5:0.

Mr. Dahilig: Thank you, Madame Chair.

Class IV Zoning Permit Z-IV-2018-8 and Use Permit U-2018-7 to allow establishment of a pre-school facility within the Hokulei Village in Līhu'e, situated on the makai side of the Nuhou Street/Kaumuali'i Highway intersection, further identified as 4454 Nuhou Street, Tax Map Key: (4) 3-3-003:046, and affecting a portion of a larger parcel containing approx. 22.818 acres = Keiki Montessori of Hawai'i. [Director's Report received by Commission Clerk 5/14/18.]

Mr. Dahilig: We are now on Item G.2.b. This is Class IV Zoning Permit Z-IV-2018-8 and Use Permit U-2018-7 to allow the establishment of a preschool facility within the Hokulei Village in Līhu'e, situated on the makai side of the Nuhou Street/Kaumuali'i Highway intersection, further identified as 4454 Nuhou Street, Tax Map Key: (4) 3-3-003 Parcel 046, and affecting a portion of a larger parcel containing approximately 22.818 acres. The applicant is Keiki Montessori of Hawai'i. There is a Director's Report that was received by the Commission Clerk on 5/14/18, as well as...Director's Report and a Supplemental No. 1 to the Director's Report for this morning.

The Department would recommend opening the agency hearing on this item.

Chair Apisa: We will open the agency hearing.

Mr. Dahilig: Madame Chair, I do not have anybody signed up to testify on this particular agency hearing. The Department would recommend making a final call for any other testifiers for this hearing and then close this agency hearing at this time.

Chair Apisa: Anyone here wish to testify on the Keiki Montessori of Hawai'i (item)? Hearing none. A motion?

Ms. Nogami Streufert: I move to close the agency hearing.

Mr. Ho: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 5:0.

Mr. Dahilig: Thank you, Madame Chair.

Continued Public Hearing

New Public Hearing

All remaining public testimony pursuant to HRS 92 (Sunshine Law)

Mr. Dahilig: Items 3, 4, and 5 – we do not have anybody signed up to testify for any new public hearings, continued public hearings, and any other testimony pursuant to Chapter 92, Hawai‘i Revised Statutes, under the Sunshine Law. The Department would recommend making a final call for anybody that would like to testify on any other agenda item posted for this morning.

Chair Apisa: Final call – is there anyone here that wants to testify on any agenda item? Hearing none.

Mr. Dahilig: Thank you, Madame Chair.

## **NEW BUSINESS**

Class IV Zoning Permit Z-IV-2018-8 and Use Permit U-2018-7 to allow establishment of a pre-school facility within the Hokulei Village in Līhu‘e, situated on the makai side of the Nuhou Street/Kaumuali‘i Highway intersection, further identified as 4454 Nuhou Street, Tax Map Key: (4) 3-3-003:046, and affecting a portion of a larger parcel containing approx. 22.818 acres = Keiki Montessori of Hawai‘i. [Director’s Report received by Commission Clerk 5/14/18.]

Mr. Dahilig: We are now back to action, given the amended agenda, on G.2.b. This is the Class IV Zoning Permit Z-IV-2018-8 and Use Permit U-2018-7 regarding the Keiki Montessori application in Līhu‘e. Jody will be presenting the report on behalf of the Department.

Staff Planner Jody Galinato: Good morning, Madame Chair and members of the Commission. I will try to make my report a little bit brief.

Ms. Galinato read the Project Description and Use, Additional Findings, and Preliminary Evaluation sections of the Director’s Report for the record (on file with the Planning Department).

Ms. Galinato: In addition, there was a Supplemental No. 1 that had additional comments from State Department of Health and Public Works. I will hold off for the conclusion. Thank you.

Chair Apisa: Thank you. Is the applicant present?

Mr. Ron Agor: Good morning, Madame Chair and Commission members and Director Dahilig. My name is Ron Agor, for the record, and I have with me Evelina Sowa, who is the owner of the preschool. I would like to just say that we don’t have any problems with the comments from the agencies. Other than that, we are here to answer any questions you may have.

Chair Apisa: Okay, thank you very much. Any questions from the Commissioners?

Ms. Ahuna: I don’t have any questions. I just think it is much-needed. We need more preschools here and it is nice to see that we would have an offering of a Montessori preschool. I

am familiar with Montessori – I attended one – so I think it’s nice to have options like that on Kaua‘i, and it is in a good location where it is much-needed – Līhu‘e.

Ms. Nogami Streufert: The 20 parking spaces that you have there – is that specifically for this or is that for all of the residents within that building?

Mr. Agor: The entire parking area is shared parking for everybody.

Ms. Nogami Streufert: So it is shared parking, so that’s not really 20 spaces for...

Mr. Agor: Well, we calculated the 20 spaces in relationship to...if the space was a retail space, it is comparable to that of the retail space.

Ms. Ahuna: What about the eight dedicated parking? Is that within the 20? The eight dedicated spaces for drop-off and pick-up – that would be dedicated to the preschool?

Mr. Agor: Yes.

Ms. Nogami Streufert: Do you have any concerns about safety for the children with a pick-up and drop-off in a commercial area? Or do you have any mitigating things that you are going to be doing in order–

Mr. Agor: No, I don’t. The parents will have a conference with the school, directing them how to drop off their children and pick up their children.

Mr. Ho: In reviewing your floor plan, I didn’t see a kitchen area or something that might have a food prep situation for the children. Is this just a home lunch–

Mr. Agor: Yes, it’s a home lunch...and they will be providing prepackaged snacks. We went through this with the Health Department already.

Mr. Ho: Are you going to have security on property or have access to security?

Mr. Agor: I believe the shopping center has security.

Mr. Keawe: I had a question. Obviously in your research about the viability of locating the school in Līhu‘e, do you envision at this point...subject to the approval, how long do you think this will take to get the school up and running? Are you looking at a fall opening?

Mr. Agor: Yes, we are looking at a fall opening.

Mr. Keawe: Fall opening?

Mr. Agor: Yes.

Mr. Keawe: And how many students? Was it 48 max? Is that what it was?

Mr. Agor: Yes.

Mr. Keawe: Forty-eight max?

Mr. Agor: Yes, 48 max.

Mr. Keawe: Just one real quick question about tuition, just to give some idea of what it would cost to attend the school, and how did you determine the cost factors in doing that?

Ms. Evelina Sowa: Hi there. Evelina Sowa. The tuition will be based upon the other schools in the area. The objective is to not make it too difficult for parents to pay tuition, but also, it is a Montessori environment, so we do have different materials, specified materials, specific materials for the school which do cost a little bit more. So we do want to make sure that we can pay the rent and payroll, but at the same time, keeping the prices very similar to other schools in the area so that everyone can afford to attend.

Mr. Keawe: Okay, so...

Ms. Sowa: We have not determined exactly just yet.

Mr. Keawe: Basically, you haven't determined what it is at this point?

Ms. Sowa: Yes, at this point.

Mr. Keawe: So subject to getting your approval, then you would look at what the actual cost would be?

Ms. Sowa: Yes, that is still a decision that we are working on.

Mr. Keawe: Okay. As far as any preliminary indication about interest in the school, obviously you've been out in the community, you've talked to community groups...

Ms. Sowa: Yes.

Mr. Keawe: Do you anticipate having a fairly large or maximum kind of response as far as the number of students that would participate?

Ms. Sowa: We hope so. There is a director that has already been hired for this school, and she has been very active in the community and has had a lot of interest and some verbal commitment as well.

Mr. Keawe: Okay, good. And like Commissioner Ahuna said, it's good to have an alternative. I think more concerning would be the cost.

Ms. Sowa: Right.



Mr. Keawe: Everybody understands it is a good alternative, but you pay for what you get.

Ms. Sowa: Right. At the same time, though, I do want to make it affordable.

Mr. Keawe: All right.

Mr. Ho: Can you tell us what your operations will be? What hours you go to, and Saturday/Sunday maybe?

Ms. Sowa: Did you say Saturday and Sunday?

Mr. Ho: Yes. Your daily operations, perhaps Saturday/Sunday?

Ms. Sowa: Yes. Saturday and Sunday is definitely being considered because a lot of people have been interested in a center where they can drop off their children for shopping, for other activities, things like that. We will mostly be (open) Saturday/Sunday; that is still to be determined at this time. It would be open in the morning (until) probably late afternoon for parents to be able to do what they need to do.

Daily operation for the school – Monday through Friday, we would open at 7:30 (a.m.). School begins at nine o'clock until three (o'clock). The school program ends at three (o'clock) and from three (o'clock) on is the daycare portion of the program where children get to play with other things than Montessori materials. By that time they are burnt out; they need a little break. They need Legos and Play-Doh and other activities like that until their parents pick (them) up.

Ms. Nogami Streufert: You said that you have already appointed a director?

Ms. Sowa: Yes.

Ms. Nogami Streufert: And that person lives on Kaua'i?

Ms. Sowa: Yes.

Ms. Nogami Streufert: And will be a resident here?

Ms. Sowa: Yes. She's present here today.

Ms. Nogami Streufert: Okay.

Chair Apisa: Question?

Mr. Ho: I have a question for Jody. In a more restricted situation – the parking requirement – would drop-off be counted as a parking space? Is that counted as a parking space?

Ms. Galinato: That's really not in the CZO, but they are designating the 8 spaces for pick-up and drop-off, which are over and above the 12 that are required for the commercial use.

Ms. Ahuna: So within the shopping center, no other people within the shopping center can park there? It is just dedicated to the school for drop-off and pick-up?

Ms. Galinato: I am assuming that they are going to mark those spaces for that based on what they put in the application.

Mr. Agor: We are working with the landlord on designating drop-off and pick-up spaces.

Ms. Ahuna: And I'm assuming – to respond to Commissioner Ho's concern about security – that they will have to sign-in and sign-out their child and so forth; part of the regular daily life at the school, correct?

Ms. Sowa: Yes.

Chair Apisa: Any other questions, Commissioners? Your recommendation.

Ms. Galinato: Okay.

Ms. Galinato read the Preliminary Conclusion and Preliminary Recommendation sections of the Director's Report for the record (on file with the Planning Department).

Ms. Galinato: Madame Chair, I have nine conditions that I can read for you.

Chair Apisa: Yes, please.

Ms. Galinato: Okay.

Ms. Galinato continued reading the Preliminary Recommendation section of the Director's Report for the record (on file with the Planning Department).

Ms. Galinato: That's all I have, Madame Chair.

Chair Apisa: Thank you.

Mr. Keawe: I have a question.

Chair Apisa: Go ahead.

Mr. Keawe: Do you understand and are willing to comply with those nine conditions?

Mr. Agor: Yes, we do, sir.

Mr. Keawe: Okay.

Ms. Ahuna: This is all within the existing structure, correct?

Mr. Dahilig: Yes.

Chair Apisa: No further questions? Are we ready to take action?

Ms. Nogami Streufert: I move that we approve Class IV Zoning Permit Z-IV-2018-8 and Use Permit U-2018-7 for the Montessori school as proposed.

Ms. Ahuna: Second.

Chair Apisa: We have a motion and a second. All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 5:0. Congratulations.

Mr. Agor: Thank you, Commissioners.

Ms. Galinato: Thank you.

Ms. Sowa: Thank you very much.

Mr. Dahilig: Thank you, Madame Chair.

## **CONSENT CALENDAR**

### **Status Reports**

#### **Director's Report(s) for Project(s) Scheduled for Agency Hearing.**

Mr. Dahilig: Let's go back to the agenda – we are on Item H. This is the Consent Calendar. We do not have any items for the Commission for consent this morning.

Item I is an Executive Session matter and I am not sure if, maybe, the attorney would suggest handling that at the end of the meeting or during the lunchtime period.

Ms. Higuchi Sayegusa: Yes.

Mr. Dahilig: Okay.

## **GENERAL BUSINESS MATTERS**

### **Withdrawal of Petition to Appeal Decision of the Planning Director Filed Herein on June 10, 2013 = Victoria A. Leadley.**

Mr. Dahilig: Item J – this is General Business Matters. This is a withdrawal of a petition to appeal the decision of the Planning Director filed herein on June 10, 2013. I believe the

withdrawal request has been circulated to all of the Commissioners for their review. This is just for receipt of the transmittal.

Chair Apisa: A motion to receive the submittal of this transmission?

Mr. Keawe: I move to receive the petition for withdrawal from Victoria Leadley.

Ms. Nogami Streufert: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 5:0.

Mr. Dahilig: Thank you, Madame Chair.

Request to Amend Special Permit SP-88-3, Use Permit U-88-23, and Class IV Zoning Permit Z-IV-88-28 to modify Condition No. 9 to allow additional time to construct buildings previously approved through the subject permits, on a parcel situated in Kīlauea, further identified as Tax Map Key: (4) 5-2-013:012, and affecting a portion of a larger parcel approx. 46.587 acres in size = *Living Farms, LLC*.

Mr. Dahilig: We are on Item J.2. This is a request to amend Special Permit SP-88-3, Use Permit U-88-23, and Class IV Zoning Permit Z-IV-88-28 to modify Condition No. 9 to allow additional time to construct buildings previously approved through the subject permits, on a parcel situated in Kīlauea, further identified as Tax Map Key: 5-2-013:012, and affecting a portion of a larger parcel approximately 46.587 acres in size. The applicant is Living Farms, LLC, and there is a Director's Report pertaining to this matter.

Madame Chair, I will be pinch-hitting for the Deputy Director as he wrote this report and he is currently at Council since they moved Council to a Tuesday this morning.

As you see from the history of this particular permit, it has gone through a number of iterations regarding how the operations have evolved over the past, I would say, 30 years. So the last time these permits were touched was in a situation where the construction of the buildings were meant to also facilitate the operation of, I guess, a restaurant and those types of related activities to support a farm-to-table concept. The owner is currently on title – Chris Jaeb – but for personal and medical reasons, he's had to wind down his, I guess, involvement in this operation and put the parcel up for sale; the parcel is currently in escrow as represented in the application. However, when you look at the original approvals that were done a few years ago, there was a Condition No. 9 that was added in there that required that the project be completed by the end of this month, and obviously that is not going to happen. So part of the discussion today is whether or not their recommended extension, which is to the year 2023, I believe, is reasonable given the circumstances they presented; we find it reasonable.

Again, we understand that this concept of providing farm-to-table type of food services to the public is not an exact science. We know that it is something that continues to evolve over time as people try to figure out how to make economic sense of it and also normalize operations. Guava Kai, going back to its history in 1988, was an experimental farm for guava. So it is in line

with a number of the proposals that were done in the past where they've tried to look at products that can be grown locally and add value to that to try to sustain agricultural operations.

We do not find any objections to this amendment. We do not believe it is a substantial amendment given what they are proposing, and we would defer to having the applicant, I guess, elaborate more on their reasoning why they believe a five-year extension is reasonable.

Chair Apisa: Okay, thank you. (Would) the applicant like to come forward, please?

Mr. Harvey Cohen: Good morning, Chair Apisa and Chairpersons [sic]. My name is Harvey Cohen. I am an attorney. I represent the current owner, Living Farms, LLC. To my right is Oliver Niedermaier, who is the purchaser who is currently in escrow, as well as Ian and Emily, part of the buyer team. I am here just briefly to give you a quick overview of, I guess, the past and the present, and these folks – I'm going to hand the mic to them very quickly to give you a sense of what the future plans are.

As Director Dahilig indicated, in 2013, my client, Living Farms, LLC, whose managing member is a gentleman by the name of Chris Jaeb, came to this commission and requested an amendment to the 1988 Special Use Permit that was given to the Guava Kai operation, basically to bring the operation into more contemporary times and uses. The Commission granted that application with conditions, and I am happy to say that, in large part, because of the allowances made by the Commission, the applicant, Living Farms, was able to bring a farm-to-table restaurant to fruition for the north shore. Just about the time that some unfortunate circumstances came his way, I am happy to say the restaurant was actually starting to turn the corner and make a profit. So that is pretty significant in this day and age for a fairly new restaurant.

As Director Dahilig indicated, at that time a few years ago, the managing member of the LLC, Mr. Jaeb, encountered some pretty serious health issues, was forced to discontinue the operation pending some treatments, and at that time, decided to put the property on the market, so the restaurant has not been functional for a couple of years. Most recently, in light of the north shore floods, the property has been a great resource to the community; has operated through Malama Kaua'i, a non-profit who many of you may be familiar with, as a distribution center for relief efforts. In addition, Living Farms granted a right-of-entry to the County to allow access through portions of the property – the property, by the way, is often referred to as "Common Ground" – in order for residents in upper Kalihiwai Ridge to access their homes because of the significant sinkhole on the access road to Kalihiwai Ridge. The applicant is continuing to try to endeavor in all efforts to work with the County and be a great resource to the north shore. We are very confident that Mr. Niedermaier's team will continue in that vein and probably make significant improvements.

As Director Dahilig indicated, we haven't been able to satisfy the buildout of the last building, and that deadline is looming very quickly here. Clearly, that is an important component to the sale in order to be able to do that, so that's why we are here today this morning before you and asking for your willingness to amend that one condition.

I will remain up here for questions, but I think at this point it would probably be useful to hear what the current owner's plans are and I will hand it over to Ian. Thank you.

Mr. Ian Jung: Thanks, Harvey. Good morning, Chair Apisa and members of the Commission. Ian Jung on behalf of Oliver Niedermaier and his partners involved in this transaction that is pending.

As Director Dahilig mentioned, there is a trailing history of these entitlements – they have been going on for almost 30 years now – and it kind of trails with what agriculture has been here in Hawai'i where there was a monocrop type of approach and now, in the 2013 amendment package, it sort of shifted to dealing with diversified ag where you can actually have this farm-to-table concept and actually piggybacked right on a policy change from the State law standpoint where they realized that they want to encourage this diversified approach where you can actually have retail outlets that sell value-added products grown in Hawai'i or on Kaua'i without a Special Use Permit. So the State law has been encouraging this type of activity and also took it as far as to allow for these farm-to-table concepts where you can have a restaurant that serves food from the particular farm producer that is operating the ag activity, as well as any other products here on Kaua'i.

So we feel this model has been driven to where we are at now with the permit from an entitlement standpoint, but I would like to introduce Oliver and Emily, who want to continue with the vision that Mr. Jaeb had created for the property out there where you actually had infrastructure from 1988 that could have this adaptive reuse and put back in the use for sort of a new agricultural type approach here on the island of Kaua'i.

Just real quick, on a status update for the buildings, because that is what's critical to tie Condition No. 9, which is the request to extend the buildout, and why we are asking for 5 years is because we have Building Nos. 1 and 2 – if you look on the site plan, which is on Exhibit H – Building Nos. 1 and 2 are complete, Building No. 3 is incomplete, and Building No. 4 is 50 percent complete. So the Condition No. 9 for completion of the project was tied to Building Nos. 3 and 4. As a part of the entitlement process and to get the permit set current, we wanted to make sure we have this extension so the permits are in line, and then continue with the annual status reports that the Planning Department had required as a part of the 2013 amendment set.

With that said, from a procedural standpoint, our request is premised on Chapter 12 of the Planning Commission Rules which allows this body to go and make an extension via an amendment to a particular condition. So I will turn it over, now, to Oliver, who will give you kind of a brief background of what the vision of the property will be when and if he takes it over.

Mr. Oliver Niedermaier: Thanks a lot, Ian and Harvey. Madame Chair, Commission, Planning Director, thank you very much for taking the time–

Chair Apisa: Just for the record, identify yourself.

Mr. Niedermaier: My name is Oliver Niedermaier and I currently have the property in escrow. I am representing a group of partners that are all, I would say, sustainability-focused entrepreneurs

and investors who strongly believe in a future for something like Common Ground on the island of Kaua'i that can have a meaningful impact for the community, become a viable business, and actually something we would really like to build over the next decade or more.

Chair Apisa: Thank you.

Mr. Niedermaier: Just, perhaps quickly, what my partners and I are trying to achieve here and why we are doing this is we believe that Common Ground – with the entitlements, with the history going back to 1988 – is a perfect place to become a food hub for the community, to work with local farmers to create value-added product, and to do this in a viable way. I mean viable way because it will be a very coordinated approach where you have farm-to-table; where you have farm-to-shelf; where you have value at processing; where you have decentralized production – inviting, actually, local farmers to process and create value-added products on the property; where you can ship it where you become ultimately a hub and a think tank around agricultural innovation.

I teamed up, amongst other people, with Emily Olsen, who is a very experienced food entrepreneur, who is going to oversee the management company that is going to oversee the restaurant operation and the farming operation, also. So she can tell you a little bit more about the details of what we are trying to achieve there and how we are going to go about it.

Chair Apisa: Thank you. Again, please identify yourself for the record.

Ms. Emily Olsen: Good morning. My name is Emily Olsen and I will be overseeing, as Oliver said, the operations at Common Ground. Really, our vision is to stay in line with, really, what Chris set out to do, (which) is to start with diversified regenerative organic agriculture, buildout the farm-to-table restaurant and the facilities that will allow for the community and our farm to create value-added products. So that's the short of it.

Chair Apisa: All right, thank you. Thank you very much. Any questions from the Commissioners?

Mr. Keawe: I had a question. Is this strictly a real estate transaction? Or does it include elements of the existing business?

Mr. Jung: It is sort of a combined because what it is, it is actually owned by an LLC, so they would be acquiring the LLC and then the business rolls with the property on it. The intent here with the transaction is to basically get the real property that's (inaudible), acquire the infrastructure on there, as well as the operation of the restaurant.

Mr. Keawe: Okay.

Chair Apisa: Any other questions?

Ms. Nogami Streufert: One of the things about the restaurant is that, right now, you have the right to farm-to-table concept; you already have the right to do that. Why is there a need to amend it to increase it?

Mr. Jung: Okay, so we have the right from a State layer perspective, but with the County's CZO, the CZO still requires for commercial activity on agriculture that you still need to get the Use Permit requirement [sic]. So although in 1988 when the permit from...Kīlauea Agronomics obtained the Special Permit, I would argue that you don't need a Special Permit now but you would still need the Use Permit to operate the commercial activity on ag land. So the County law has not necessarily caught up with the policies that the State law has passed from a global state land use perspective.

Ms. Nogami Streufert: So if the terms were made such that you could sell at the...that it would still be the farm-to-table and only those products that were from Kaua'i – agricultural products or...how is it put here...in keeping with the promotion of Kaua'i grown and/or Hawai'i made products?

Mr. Jung: Correct.

Ms. Nogami Streufert: That's all you want? You don't want to increase it to sell alcohol or anything else that may not be grown on Kaua'i?

Mr. Jung: When you look at value-added products, you can have...if the principal product is a Kaua'i or Hawai'i grown product, you can involve, from a value-added standpoint, other particulates; like, say you have sugar cane that's pressed to make the syrup for the drink or fresh fruits from the farm, and then you mix it with Stolichvinsky vodka or something to that effect. I think that was approved and allowed via an interpretation by the Planning Department back in 2013.

Ms. Nogami Streufert: So that is all you continue to want? You don't want anything more than that?

Mr. Jung: Correct.

Ms. Nogami Streufert: There is no amendment that you are looking for that would sell other things other than Kaua'i grown products?

Mr. Jung: Yes. The uses that were proposed and permitted as the changeover in 2013 would be the same uses, so we are not asking for an expansion of the uses; basically an expansion on time.

Ms. Nogami Streufert: Okay.

Chair Apisa: Just to keep in mind, we do have homegrown Kōloa Rum and the Kaua'i Beer Company.

Mr. Ho: Five years is an awful long time to bring your project to completion; it is almost like an open book. Perhaps I haven't heard anything substantial to say that five years is warranted;



seems like it is just the completion of Building No. 3 (that) would get you started on your way. I am perhaps thinking more of a 3-year extension, at most; I don't know if the other commissioners have any other ideas on it.

Chair Apisa: Maybe you could explain the justification for the five years.

Mr. Jung: The justification for five years is...and you are right – Building No. 3 is a 1,200-square foot building, not a large building. Building No. 4 is 50 percent complete. It is also a 1,200-square foot building. It is sort of the outdoor eating area that was already constructed. But the reason we are asking for five years is so when the property is closed on and acquired, then there can be some operational implementation protocol that can go to get the business operating so it can make some money, and then to do the expansion of the project, as well as the completion of Building Nos. 3 and 4.

So why it's tied to five years is because we jump back to Condition No. 1, which is the improvement to Kuawa Road. So the property is actually...you have about three quarters of a mile road, which is a separate parcel, (Parcel No.) 12, and you have Parcel No. 13, which is the actual Common Ground property. So as a part of the condition, as an exaction by the County for the traffic impacts that were identified both in '88 and in 2013, the car counts were about the same; '88 traffic study was 170 cars per hour (and) in the 2013 amendment, the traffic study said about 177 cars per hour. So the traffic impacts were sort of the same based on what the 1988 permit said, but what the Commission did in 1988 was impose a requirement to widen Kuawa Road and repair it. As a part of the cost infrastructure that they have to build in as a business, they are going to have to go in and do the repair to Kuawa Road and complete the road by expanding it to 20 feet. The timing element is so the business can be operational, complete the infrastructure, and in conjunction with completing the infrastructure, absorb the cost of building out and completing the road at Kuawa Road.

Mr. Ho: What I am hearing from you, Ian, is that you want the operation to be up and running and profitable, and it will take you five years for that to happen to complete the project? Is that, pretty much, it?

Mr. Jung: Well, the permitting will probably take...the building permit – about a year to get it going, for the construction of the road – maybe two years, so we are in that three-year period, but I think there is always the need for that additional two-year buffer in case something goes wrong, so the request is that five years.

Mr. Dahilig: I think, also, Commissioner, when we were looking at this, the permitting history showed that this last set of amendments was a five-year horizon, so back in 2013, that was the last time that these amendments were made.

In effect, the operations are starting from scratch again. They have been closed for a couple years. They don't have a business base; they have to redevelop. They don't have crops; they need to be redeveloping again. So all these things...they are essentially starting from square one. Given that time horizon...when we first looked at it, yes, we had the same reaction, like whoa, five years, right, that seems like a long time. But when we kind of dug in a bit, we realized, hey,

they really are starting from scratch again. It's a shell; that's what they are buying out there, is really a shell. So we do buy the argument that the operational, kind of, start-up and all these other things that need to be done to get to that point of being able to complete the buildings with an operating operational base is kind of in line with the thinking of the Commission back last June in 2013 that that five-year horizon was what was kind of entertained as that development period, so we think it mimics what that analysis was back in 2013.

Mr. Ho: You are using the five years as a historical background?

Mr. Dahilig: Yes, just based off of what the Commission in 2013 kind of saw as a reasonable period because these conditions are running up in a five-year timeframe now, right? So when they said okay, Mr. Jaeb, you can go ahead and get your business and complete your buildings, that year of 2018 was in mind back in 2013, so that five-year horizon was something that was reasonable back then and that's why we are looking at this situation now and saying okay, they are starting from scratch again, we think that that five-year horizon is reasonable to get something up and running like this.

Mr. Ho: What is the check and balance on this?

Mr. Dahilig: You know, ultimately, for us, we still have the annual status reports that are going to be coming in there. Also, we have the other kind of conditions, as Mr. Jung mentioned, with the road and those types of things, so it's a...the intensity of the usage is not something that is of a concern to us because we knew that it was up and operating during that history where the neighbors...we got no complaints during that period other than the condition of the road; that was the only thing we got complaints about – was the condition of the road. But other than that, the way that Common Ground was operating the restaurant didn't seem to elicit a negative response from the public, so we don't think that a request like this, where they are not looking at adjusting the use but rather just looking at adjusting the timeframe, that we are going to see some type of use character that is going to be different than what was there previously when it was an actual operating restaurant.

Mr. Ho: The other buildings you are proposing, Ian, do they have permit requirements that have to come to us again?

Mr. Jung: No, they don't. Building No. 1 was completed. Building No. 2 was completed. Building No. 4 is only half, right? So in the annual status reports, we can certainly break that down and explain where we are at on an annual basis.

One of the other things I neglected to mention was that we are also negotiating with Wai Koa to get 17 acres – additional ag land – to put into farmability, as well as another additional 20 in the backend to add for more farm areas. The idea is to get those components up and running first so we can actually have the product to put on the table and have the farm activity undergoing before we can focus on the expansion of the buildings, which, again, pulls it back to Condition No. 1, which the expansion of that Building No. 3 is tied to the improvement to the roadway. The applicant has already gone to meet with contractors to see what those costs are to repair the road and get it to a width of 20 feet. We have some estimates as of right now to get that moving.

Ms. Ahuna: In looking at the testimonies that came in, too – so Commissioner Ho, just to kind of make you feel a little better – Yosh from ‘Āina Ho‘okupu O Kīlauea, because he runs the ag, so that took a few years to get that going. We all know it has been almost five years now moving that along, as well as Wai Koa, which is Joan Porter, and they are in full support of this. I think it is really nice to see neighbors that are in the same business of helping local farmers move forward to – within the same community – prosper for the value of our community and eating better and healthy products that come right from Kaua‘i versus bananas that came from Florida or something, or somewhere else – Costa Rica. I mean, it is just nice to see the existing farmers and community around that actually have big parcels of land that are trying to move this farm-to-table forward and they don’t see them as a competitor but more of a partner. It did take those organizations fairly long to get up and going, so five years seems to be appropriate.

Ms. Nogami Streufert: To build on that, though, the food shops and the visitor center are ancillary to the agriculture. Is that correct?

Mr. Jung: That’s correct.

Ms. Nogami Streufert: There is a...and I guess I’m going ahead, but Condition No. 8 is that the sale of items will be of the products from the land because otherwise, it would be contrary to the Land Use Laws, and we don’t want a commercial facility on agriculture land.

Mr. Jung: Just to clarify one note, it is for products grown in Hawai‘i, and I think one of the focus outside of the farm-to-table concept is providing like a Foodmaker’s hub where local ag producers can come and bring their products, do a wash-down, and package it into a value-added product that can be sold, like a bar of chocolate or something to that effect; that can be sold to market, not just at the site, but elsewhere as well.

Ms. Nogami Streufert: I just wanted to make sure that they are products that are from Kaua‘i or from Hawai‘i, per se—

Mr. Jung: Correct.

Ms. Nogami Streufert: –and not from somewhere else, (like) the bananas from Costa Rica coming in to be processed.

Mr. Jung: Right.

Ms. Ahuna: I think they are trying to move it forward so we don’t have to eat bananas from Costa Rica.

Mr. Niedermaier: I never tasted bananas from Costa Rica, but I am sure we got better ones here.

Just to reiterate that point, our entire model – it builds almost in concentric circles from the community; so first, Northshore Kaua‘i farmers, then go all over the island, then go Hawai‘i. We don’t have any interest in selling Chinese-made towels there or Florida bananas because what we really want to create is this food hub where you can leverage this infrastructure that is

there – back in the 1988 days and before that – where you can really build value-added products, high-margined products. We also expect that a lot of our investment, beyond the initial purchase of the land, is going to go, ultimately, back into the community, and that's local construction, local farming, so we want to create some serious jobs here. You can only do that with a very integrated concept; that is why it is very important that this restaurant – and we have a short list of very impressive Hawaii-born chefs for that – that's why we need this additional land that Wai Koa is willing to lease to us so that we really have all the bits and pieces together to build something that is unique for the community, in the community, and beyond the community.

Ms. Nogami Streufert: I thank you for that explanation because that is exactly what I was looking for.

Mr. Niedermaier: Thank you.

Ms. Nogami Streufert: To ensure that this is what it was going to be; that it was really, truly going to be a farm-to-table because once these permits are given, they run with the land. Consequently, I wanted to ensure that we really are following the farm-to-table concept.

Mr. Niedermaier: The permits as they are worded now...and after Ian spent several months explaining what it means to me, but now that I think I understand it, that is exactly what we want to do. So you are not putting restrictions onto us; that is what we want to do.

Emily, do you want to add to that?

Ms. Olsen: Yes. You mentioned Yoshi and the surrounding farmers in the community – I've had the chance to spend time with them. In the time that it takes to actually get the agriculture right, and like you said, we are starting really from the beginning again, and the time horizon just to get the agriculture right, which will then support the products that go into these buildings we have to build, that is because the agriculture is our first priority; that is why we need the time to get to that stage. I just wanted to add that on.

Mr. Dahilig: Just to be clear, also, once these permits – if they are amended by the Commission – are approved, it falls on our department again to enforce kind of the intent on this. I mean, there are going to be situations when you have black pepper from Indonesia being put into a dish. The intent here is not to be the food police. I think the intent really is to kind of mimic that spirit of really using, as much as possible, from the land on the islands versus trying to make sure the proportions of certain spices are appropriate when creating a rub. I think that's really the...we kind of have a bit of a spider-sense from an enforcement standpoint. Obviously if we see the Chinese-made towels and those types of things, we are going to say hey, that's not the point here. But they don't distill whiskey here on the island and some people like whiskey, so if they are going to be using starfruit and oranges from the farm to make some type of old fashion, then that is the kind of thing that we have to have some degree of reasonability, especially if I am going to go patronize the place and I like whiskey, right? So that's one of the things that needs to be kind of considered through the whole thing. In any event, that's the way we are going to be enforcing and we are going to have some degree of latitude just so that the fresh cracked black pepper on

the salad that is coming from the farm won't necessarily have to be certified as being from the farm, per se, but all the greens are, right?

Mr. Keawe: Is there a preliminary recommendation?

Mr. Dahilig: Yes. Our recommendation is to extend to the Year 2023 as stated in the report signed by the Deputy Director.

Mr. Keawe: Okay.

Chair Apisa: Anything else?

Mr. Dahilig: And I just want to just add to the record, as Commissioner Ahuna mentioned, there are six pieces of written testimony that have been submitted in support of this amendment.

Chair Apisa: And nothing opposed?

Mr. Dahilig: Nothing opposed.

Chair Apisa: Any conditions or anything we need to hear about?

Mr. Dahilig: No, just that one amendment to the Year 2023.

Chair Apisa: Are we ready to take a vote? Or any other questions?

Mr. Keawe: No. Ready.

Ms. Ahuna: I would like to move to approve the request to amend Special Permit SP-88-3, Use Permit U-88-23, and Class IV Zoning Permit Z-IV-88-28 to modify Condition No. 9 to allow additional time to construct buildings previously approved through the subject permits on a parcel situated in Kīlauea.

Ms. Nogami Streufert: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 5:0. Congratulations and welcome.

Mr. Jung: Thank you very much.

Chair Apisa: We will take a 10-minute break.

The Commission recessed this portion of the meeting at 10:06 a.m.

The Commission reconvened this portion of the meeting at 10:24 a.m.

Chair Apisa: Call the meeting back to order.

## **COMMUNICATION (For Action)**

Mr. Dahilig: Madame Chair, we are on Item K for Communication. We have none for action this morning.

## **COMMITTEE REPORTS**

### **Subdivision**

Mr. Dahilig: Item L – this is the Committee Reports. There is a Committee Report No. 13 that has been circulated. However, we do want to make one suggestion. Even though the minutes were recommended for approval, page 7 of the PDF shows “Papalina Road” being listed as the road when it should be “Puuwai Road” on page 7 of the PDF, which are the minutes of April 10, 2018, which is the...

Mr. Keawe: What are we talking about?

Mr. Dahilig: This is for the Subdivision Committee.

Mr. Keawe: Oh.

Mr. Dahilig: Sorry. So these were the minutes that were transmitted on the April 10<sup>th</sup> meeting, but I just want to correct the road name that can be found on page 7 of the PDF; instead of “Papalina Road”, it should be “Puuwai Road”.

Chair Apisa: So we need a motion to approve the Subdivision minutes with that one correction.

Mr. Dahilig: Subdivision Committee Report with the correction to the April 10<sup>th</sup> minutes.

Mr. Keawe: Okay, wait, I’m confused. Are we approving the Subdivision Report?

Mr. Dahilig: Yes.

Mr. Keawe: With corrections to the minutes of–

Chair Apisa: With corrections to the minutes. I’m sorry.

Mr. Keawe: Okay.

Ms. Nogami Streufert: Move to approve the Subdivision Committee Report with the adjusted amendments.

Mr. Keawe: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 5:0.

Mr. Dahilig: Thank you, Madame Chair.

**UNFINISHED BUSINESS (For Action)**

Class IV Zoning Permit Z-IV-2018-6, Use Permit U-2018-5 and Special Permit SP-2018-3 to allow improvements to the Kīlauea Wells No. 1 and 2 facility that includes construction of a new generator shelter, and replacement of an existing pump and motor control center, on a parcel situated on the mauka side of Kūhiō Highway in Kīlauea, approx. 3,500 ft. southwest of the terminus of Kuawa Road, further identified as Tax Map Key: (4) 5-2-02:013, and containing a total area of 2.737 acres = County of Kauaʻi, Department of Water. [Director's Report received 3/27/18, deferred 4/10/18.]

Mr. Dahilig: We are now on Item L. This is Unfinished Business for Action. We do have one item—

Chair Apisa: I'm sorry. Item M?

Mr. Dahilig: Item M, yes. One item. This is the Continued Agency Hearing that was closed today that was Class IV Zoning Permit Z-IV-2018-6, Use Permit U-2018-5, and Special Permit SP-2018-3 for the Kīlauea Wells No. 1 and 2. The applicant was the County of Kauaʻi, Department of Water. Mr. Cua will be providing the report on behalf of the Department for this application.

Staff Planner Dale Cua: Good morning, Madame Chair and members of the Commission. At this time, I will go through the highlights of the Director's Report.

Mr. Cua read the Summary, Project Data, Project Description and Use, and Additional Findings sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: Agency comments are attached to the Director's Report, and that concludes the Director's Report at this time.

Chair Apisa: Thank you. Is there anyone here for the Department of Water?

Ms. Laurel Loo: Thank you, Chairman Apisa, Commissioners, and Director Dahilig. Laurel Loo for the applicant, and with me is our new DOW Manager.

Mr. Bryan Wienand: Good morning. Bryan Wienand, Department of Water. We are here and available to answer any questions you have about the project or the permit application at this time.

Chair Apisa: Any presentation or anything further you want to add other than what we heard?

Mr. Wienand: In addition to what was already provided, very simply, this is a replacement project for an existing motor control center. The primary intent is to replace an aging motor control center, replace an aging pump, and provide for a generator shelter for an existing generator. This is a critical location for the entire Kīlauea System. We are not expanding our system with this project. We intend, in the future, to drill a new well in the Kīlauea area, but this project is purely limited to a replacement project for existing facilities, and it is critical that we get this work done in a timely manner for the Kīlauea System.

Chair Apisa: Yes. I know the County has some aging water systems that need to be improved.

Ms. Loo: I just want to emphasize that this project does not increase any water use.

Chair Apisa: Any questions from the Commissioners?

Ms. Ahuna: The old system – is that going to be decommissioned? What happens to the old pumps and stuff? Do you guys take that down and remove them?

Mr. Wienand: Yes, the existing Pump No. 2 will be removed and disposed of and replaced with a new pump, and the existing motor control center similarly will be removed and disposed of and replaced with new.

Ms. Ahuna: Okay, because this is kind of ugly.

Ms. Nogami Streufert: Just for clarification – we’ve had a lot of rain in that Hanalei/Kīlauea area and it was a 500-year flood or whatever – was there any damage that was done to this area?

Mr. Wienand: Fortunately, at this particular site there was no significant damage. We are very fortunate for those reasons. We had other damage in the Kīlauea System at Kahiliholo Road – we are providing a temporary bypass line on that road – and significant damage on Weke Road in Hanalei, with another part of our main line up in the Hā‘ena area near the Mānoa Stream. But, by and large, we are very fortunate that the amount of damage we did incur was pretty minimal given the circumstances for the historic flooding.

Ms. Nogami Streufer: One last question – you said that there would be another well that would be drilled in the Kīlauea area at some point in time. Will this facility be large enough to be used with that? Or is this going to be a separate unit completely that you will be building in Kīlauea?

Mr. Wienand: The future well will be an entirely separate site, and it will be effectively pumping into the same water system, but it will be operating independently of these well locations, so it will be an entirely separate project.

Mr. Keawe: I had one question.

Chair Apisa: Sure.



Mr. Keawe: I noticed that you are building a structure for the generator, but the generator is currently housed in something that's movable, so you are just going to move that – kind of like a mini mobile home with the generator – into this new structure, is that correct?

Mr. Wienand: Yes, that is correct. The existing generator is exposed to the elements, and it is not a good practice to leave generators in that manner. We want to provide protection in the event of a major storm or a hurricane to just provide service if KIUC power is not available.

Mr. Keawe: That part I understand, but why would you continue to use “the old mobile home”, I want to call it, rather than just...I mean, because you are spending \$350,000 for this new structure to house this generator that is sitting in a trailer, right, basically?

Mr. Wienand: Correct.

Mr. Keawe: So why wouldn't you just put the generator on concrete in the new structure?

Mr. Wienand: Well, the generator could be relocated and available at other sites, so we could move this generator somewhere else.

Mr. Keawe: Okay, so you need that mobility to—

Mr. Wienand: Yes.

Mr. Keawe: Okay, I got it. I just thought that was a really expensive garage.

Chair Apisa: Commissioner Ho, did you have a question?

Mr. Ho: Yes. I have a scripted...it will help us deal with something in the future, but these are questions for you, for the Water Department. Will the use include domestic water service? Is it all for domestic water service?

Mr. Wienand: The use includes domestic and agricultural; all of our customers in the Kīlauea area.

Mr. Ho: And you don't propose to increase the water usage?

Mr. Wienand: No, with this project. We do intend to drill a new well for the Kīlauea area, but this project is purely to replace an existing aging motor control center and provide a generator shelter.

Mr. Ho: Who is the primary user of the water? Is it public, private, commercial?

Mr. Wienand: This would be public use.

Mr. Ho: How will the proposed development affect other public and private uses for the reservoir or well of the pump station?

Mr. Wienand: At this time, it is to maintain the current usage and to ensure the reliability of our water system as it stands today.

Mr. Ho: Is this the primary source of the water in that area?

Mr. Wienand: Yes, in fact. We only have one water source for the Kīlauea area right now. There are two wells that are located next to each other, so we consider it as one source for the entire system.

Ms. Nogami Streufert: Could I ask a question? So while the work is going on, how will the water be provided to the residents of Kīlauea?

Mr. Wienand: That's a great question. So the water service will be maintained. There is going to be a temporary motor control center that is constructed while the conversion from the old to the new system is put in place. So it is sequenced to provide power throughout construction to ensure that water service is maintained.

Chair Apisa: I have a question. Do you have an anticipated timetable for the new well?

Mr. Wienand: Not a solidified timetable. We are in the process of identifying the new site now which, most likely, will require that we work with a private landowner for their permission to drill the well, which can be a lengthy process; we are in that process now.

Mr. Ho: Did the Department complete an EA or EIS plan?

Mr. Wienand: No, not for this project. We are exempt for this project as a replacement for an existing motor control center.

Mr. Ho: If you are a government project, like you are, does that exempt you from these restrictions – doing the EA or EIS statement?

Mr. Wienand: There is an approved list of exempt classes for the Department of Water. I don't know if you could speak to the history of that list, but this specific category falls under one of the exemption classes that was previously approved.

Mr. Ho: Do you share water with another district? I mean, do you take water back and forth; sharing it? Say you are at Moloa'a, do you send water out in that area?

Mr. Wienand: No, there is no interconnection at this time between Kīlauea and Moloa'a. We have approximately 10 to 12 existing customers in Moloa'a. We have a separate system with a separate purchase agreement with a private owner there, but the Kīlauea System – we operate and maintain entirely as the Department of Water.

Mr. Ho: Thank you.

Chair Apisa: Any other questions? Ready for a motion?

Ms. Nogami Streufert: I move to approve the Class IV Zoning Permit Z-IV-2018-6, Use Permit U-2018-5, and Special Permit SP-2018-3, subject to the conditions that were in the Director's Report.

Chair Apisa: Second?

Mr. Keawe: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 5:0. Thank you very much.

Mr. Wienand: Thank you.

Mr. Dahilig: Thank you, Madame Chair.

### **NEW BUSINESS (Continued)**

Special Management Area Use Permit SMA(U)-2018-7 to construction a single-family residence on a parcel situated on the mauka side of 'Aliomanu Road in Anahola, approx. ¾-mile from its intersection with Kūhiō Highway, further identified as 4721 'Aliomanu Road, Tax Map Key: (4) 4-8-013:018, and containing a total land area of 18,745 square feet = Gregory A. Strickland & Susan T. Strickland, Trustees.

Mr. Dahilig: We are back to action on Item G.2.a. This is a Special Management Area Use Permit SMA(U)-2018-7 to construct a single-family residence on a parcel on 'Aliomanu (Road), Tax Map Key: 4-8-013 Parcel 018. The applicants are Strickland Trustees. Dale will be presenting the report on behalf of the Department.

Mr. Cua: Thank you, Madame Chair and members of the Commission. Again, I would like to highlight sections of the Director's Report.

Mr. Cua read the Summary, Project Data, and Project Description and Use sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: The agency comments are attached to the report. At this time, this concludes the Director's Report.

Chair Apisa: Thank you. The applicants present – come forward, please.

Ms. Lorna Nishimitsu: Good morning, Commissioners. Lorna Nishimitsu on behalf of the applicants, Greg and Sue Strickland. I will just give you a brief summary because it looks like Dale covered almost everything.

If you look at Exhibit L, which is part of our application, it gives you a good perspective of what it is that the Stricklands have been putting before you. It gives you a good sense of the

neighborhood. The lot in question is the one with the red line drawn from the beach to the proposed location of the dwelling that the Stricklands want to construct. Unfortunately, the Google Earth maps kind of don't align the property address with the correct land area, but the red line shows you the approximate distance from the shoreline to the dwelling, which is going to be mauka of the existing dwelling.

The State Land Use Commission designates this property as Urban, meaning that this property and the others are intended to be used for urban purposes. The County gives this property zoning of Residential R-4; again, confirming that the land was intended to be used for residential purposes. They want to build a second dwelling on the property and the reason they are before you for an SMA for a single-family dwelling is that the trigger is this is a second dwelling on the property. The construction value is under \$500,000, so the trigger, again, is because this is a second dwelling on the property.

They already live on 'Aliomanu Road on another property, but want to build this house, which is where they intend to remain into their retirement. The front house, originally owned by the Nakamura family, has been converted to a TVR. The back house that they intend to build is going to be used only for their purposes. There is no possibility that it can be TVR'd and they don't intend to rent it on a long-term basis either.

There is going to be a total of about 22,281 square feet in this single-family dwelling, but a large part of it is taken up by the 2-car garage and the lanai that's not technically occupiable. The total square footage that will result from buildout, including the concrete driveway, will put this property at a lot coverage of 32.9%, which is below the 50% lot coverage allowed. So they are not trying to maximize density or lot coverage, nor does this structure that you see the renderings for seem out of place for the neighborhood. It is a standard size home that most families will build; people who work and live on the island.

The proposal is consistent with Chapter 205, Hawai'i Revised Statutes. It is consistent with the Kaua'i General Plan that was updated this year and the Special Management Area Rules and Regulations. Everything that they have proposed and put before you is consistent with the uses and development that has occurred in the neighborhood.

They have reviewed the staff recommendations as to conditions that can be imposed and they understand those, have no visceral disagreement with them, except that I think there is an incorrect reference to Nalo Road when it comes to the landscaping condition because they are on 'Aliomanu Road, so that is the only comment we would have on the staff report.

Chair Apisa: Thank you.

Ms. Nishimitsu: If you have questions directly of the Stricklands about how many kids they have, how many grandchildren, they are here to answer them.

Chair Apisa: All right, thank you.

Mr. Keawe: I have a question, Donna.

Chair Apisa: Yes, go ahead.

Mr. Keawe: You know the Google map that you provided, it is really hard to understand...I see the red line, but then I see where it has the address, and then there is a whole bunch of houses and stuff in there to kind of figure out...because I looked at it and went, man, that is more than one house. You've got things that are...and it looks like that is part of the parcel.

Ms. Nishimitsu: And it is not because I couldn't get the Google Earth map to mark down the borders of the property, and it might be because I am technically still in the twentieth century; I mean, I don't-

Mr. Keawe: Yes, we understand.

Ms. Nishimitsu: So that is why I tried to draw the line, and I didn't want to make an attempt to draw the boundaries of the property because I don't know the scale; my measurement would probably be off and then it would be a misrepresentation. But where the address is noted on Exhibit L, that is a totally different property.

Mr. Keawe: Okay, that answers my question. So the old Nakamura house is basically to the right of that, and they are going to be building behind in that vacant spot. Is that right?

Ms. Nishimitsu: That is correct, yes.

Mr. Keawe: Okay. That was really confusing; when you look at that, wow, they got all these parcels in it. Okay, thank you.

Chair Apisa: Other questions?

Mr. Ho: My question is for Dale. Dale, if these owners want to improve the property - a larger house, fencing - do they have to come back for an SMA Permit?

Mr. Cua: Generally speaking - and a lot of it will be depending on what is being proposed - say if it is a real minor addition, the Director would have the discretion to make as far as whether the proposal will require an amendment to the existing permit that is before you now or whether it is insignificant to warrant Planning Commission review. But, say, if they are doing a bedroom addition, probably not.

Mr. Ho: What is "minor"? Under 500,000 (dollars)?

Mr. Cua: Well, the threshold between an SMA Minor Permit versus an SMA Major or Use Permit would be 500,000 (dollars), yes.

Mr. Ho: What would happen to the TVR Permit if they decide to redo the TVR?

Chair Apisa: What do you mean by "redo"? Remodel it or...?

Mr. Ho: Remodel it, or...can they make it larger?

Chair Apisa: That is a separate...is this a two-unit CPR or is it just one parcel?

Ms. Nishimitsu: This is just one parcel, so the proposed single-family dwelling will be on the same lot that the existing TVR is on. If the Department is treating the TVR as a non-conforming use and structure, they would probably take the position that it is not capable of being expanded, but I cannot speak for the Department; I am just trying to read their mind.

Ms. Ahuna: Well, with the Stricklands, they (have) some 'ohana, so maybe they going have to reverse the TVR to give it to the grandchildren.

Mr. Keawe: Okay.

Chair Apisa: Any other questions?

Mr. Keawe: No, I think—

Chair Apisa: All good? Are we ready for a motion?

Mr. Keawe: Yes, okay. I move to approve the Special Management Area Use Permit SMA(U)-2018-7 to construct a single-family residence on a parcel situated on the mauka side of 'Aliomanu Road in Anahola, approximately ¾-mile from the intersection with Kūhiō Highway, further identified as 4721 'Aliomanu Road, Tax Map Key: (4) 4-8-013:018, and containing a total land area of 18,745 square feet.

Ms. Nogami Streufert: Second.

Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 5:0. Congratulations.

Ms. Nishimitsu: Thank you.

Mr. Dahilig: Thank you, Madame Chair.

## **ANNOUNCEMENTS**

### **Topics for Future Meetings**

The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Līhu'e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i 96766 on Tuesday, June 12, 2018.

Mr. Dahilig: We are now on Item O. This is Announcements. We have circulated the on deck sheets for all of the Commissioners to take a look at. As you can see, we are real lean going into

July. So there really isn't an immediate need to have a commission meeting until July 24<sup>th</sup>, with the exception of, I think, that there are a couple things that are kind of clean-up items. I think, suggestively, we did note a June 12<sup>th</sup> agenda meeting, but that is flexible, and the 26<sup>th</sup> could also be scheduled in as a date as well.

Chair Apisa: June 26?

Mr. Dahilig: June 26, right. We don't anticipate any meeting first July at this rate as well.

Mr. Keawe: Okay, so the one that is left is the Kaua'i Springs one, right? I mean, because we still have to make a decision. We kept putting it off and putting it off.

Chair Apisa: Right, and when will everybody be here? We are missing one today.

Mr. Keawe: The other thing – do we know when the new appointee is going to get appointed?

Mr. Dahilig: He is...the application is still being processed.

Chair Apisa: Okay.

Mr. Keawe: Okay, so it's a "he"?

Mr. Dahilig: It is a "he".

Mr. Keawe: Okay.

Ms. Ahuna: So we are missing...who are we missing? The new one?

Mr. Dahilig: The new one (inaudible).

Chair Apisa: And also Sean.

Ms. Ahuna: Oh, Sean; yes, Sean's gone.

Mr. Keawe: Sean is in Ireland, right, or someplace.

Chair Apisa: Sean is gone for, like, three weeks.

Ms. Higuchi Sayegusa: How it was left was to...

Ms. Ahuna: Have full quorum.

Ms. Higuchi Sayegusa: Yes, have, maybe, Les do a poll and make sure that all of the Commissioners will be available at the next meeting where Kaua'i Springs will be discussed and, perhaps, decided upon.

Chair Apisa: Yes. I don't know that we need to wait for the seventh member because he would be coming in new, but I think we should at least have the sixth here.

Ms. Ahuna: Yes. When does Sean come back?

Ms. Nogami Streufert: Beginning of the month.

Chair Apisa: Yes, I think so it was...

Ms. Higuchi Sayegusa: So I guess, perhaps, we can work with—

Ms. Ahuna: (Inaudible) July 24<sup>th</sup>?

Mr. Dahilig: Oh, no, that is the next meeting that we have applications coming in for.

Ms. Ahuna: Oh, okay.

Ms. Higuchi Sayegusa: Perhaps Les will be able to poll you folks and then we will make sure to communicate, also, with the applicant and the county attorney representing Planning.

Mr. Keawe: Okay. So what date, then, for Kaua'i Springs?

Ms. Higuchi Sayegusa: I think we just got to make sure whether Sean will be able to make either of the June dates.

Ms. Ahuna: So you guys will notify us?

Ms. Higuchi Sayegusa: Right.

Mr. Dahilig: Are the Commissioners here available on the 12<sup>th</sup> and the 26<sup>th</sup>?

Ms. Ahuna: Of June?

Chair Apisa: That is what I am checking.

Mr. Dahilig: Of June, yes.

Chair Apisa: Well, see, I have it down on June 26<sup>th</sup>. I already have it as Planning Commission Meeting – Important – Kaua'i Springs, so I was anticipating July [sic] 26<sup>th</sup>.

Mr. Dahilig: June.

Chair Apisa: June 26<sup>th</sup> is when I was anticipating it. What is everybody else's calendar looking like?

Mr. Keawe: June 26<sup>th</sup>.



Chair Apisa: June 26<sup>th</sup>.

Ms. Nogami Streufert: Right now it looks okay.

Mr. Keawe: Yes, I am good.

Chair Apisa: Did we give that date to Kaua'i Springs? I think we gave that date to them as tentative.

Mr. Keawe: I don't remember. I know it was either this one – May – or June.

Chair Apisa: They wanted advanced notice, so it was not this one; I mean, I know we put it off into the future. I'm for June 26<sup>th</sup> if everybody else is okay with that date.

Ms. Ahuna: I am okay with June 26<sup>th</sup>.

Mr. Keawe: Okay. Is that it? We will go for June 26<sup>th</sup>, subject to the applicant.

Ms. Higuchi Sayegusa: Sure. Yes, I think it was just more that we will communicate to them when to be available.

Chair Apisa: So you will communicate with Kaua'i Springs to—

Ms. Higuchi Sayegusa: Yes.

Chair Apisa: And confirm with them?

Ms. Higuchi Sayegusa: Yes.

Chair Apisa: So then our next meeting would be on June 26<sup>th</sup>.

Ms. Higuchi Sayegusa: Okay.

Mr. Dahilig: June 26<sup>th</sup>.

Chair Apisa: Okay?

Ms. Higuchi Sayegusa: Okay.

Chair Apisa: So I will delete June 12<sup>th</sup>.

Mr. Dahilig: And at this point, it looks like...so nothing for June 12<sup>th</sup>, and then it looks like, also, first meeting in July, which would be July 10<sup>th</sup>; we do not have anything set for that right now.

Mr. Keawe: Wow. So what does that mean?

Mr. Dahilig: It just means that–

Mr. Keawe: Does it mean...I mean...

Chair Apisa: We are doing a good job.

Mr. Keawe: Because for so long it was like wham, wham, wham.

Mr. Dahilig: Yes.

Chair Apisa: The Planning Department is doing a good job.

Ms. Ahuna: So you said maybe after July 26<sup>th</sup> it won't be...

Mr. Dahilig: So one meeting in June – June 26<sup>th</sup> – and then one meeting in July – July 24<sup>th</sup>.

Mr. Keawe: Okay, that's good.

Chair Apisa: Are we definitely cancelling July 10?

Mr. Dahilig: July 10<sup>th</sup>, yes. We have nothing on deck for July 10<sup>th</sup>.

Chair Apisa: Okay, so July 10<sup>th</sup> is cancelled.

Mr. Dahilig: If we have any items, we will consolidate it with the 24<sup>th</sup>.

Chair Apisa: Right, okay.

Mr. Keawe: Sorry. I wanted to ask...we asked (at) the last meeting about a Coco Palms update.

Chair Apisa: So June 26<sup>th</sup> and then July 24<sup>th</sup>.

Mr. Dahilig: Would it be possible to put it on the 24<sup>th</sup> – July 24<sup>th</sup>?

Mr. Keawe: July 24<sup>th</sup> or June?

Mr. Dahilig: July 24<sup>th</sup>.

Mr. Keawe: July 24<sup>th</sup>.

Chair Apisa: For the Coco Palms update.

Mr. Dahilig: I will put it for that one.

Mr. Keawe: Okay. So what do you know so far?

Ms. Higuchi Sayegusa: We will have to put that on the next agenda.

Mr. Keawe: Okay.

Mr. Dahilig: I can have a sidebar with you on that.

### **EXECUTIVE SESSION**

Pursuant to Hawai'i Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with County's legal counsel on questions, issues, status and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to the disaster occurrence of heavy rains and flooding throughout the island of Kaua'i and the Emergency Proclamations issued by Governor David Y. Ige on March 29, 2018 and April 15, 2018, and Mayor Bernard P. Carvalho, Jr., on April 14, 2018.

Ms. Higuchi Sayegusa: I think we are on...

Mr. Dahilig: We are back to the Executive Session.

Chair Apisa: We are done with Announcements?

Mr. Dahilig: Done with Announcements. I would suggest having the attorney bring the Commission into Executive Session and include in the motion to adjourn at the conclusion of Executive Session.

Ms. Higuchi Sayegusa: I will just read the language. Pursuant to Hawai'i Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this Executive Session is to consult with County's legal counsel on questions, issues, status, and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to the disaster occurrence of heavy rains and flooding throughout the island of Kaua'i and the Emergency Proclamations issued by Governor David Ige on March 29<sup>th</sup>, April 15<sup>th</sup>, and Mayor Bernard (Carvalho) on April 14, 2018.

Ms. Nogami Streufert: I move that we move to Executive Session and after that Executive Session that we adjourn.

Ms. Ahuna: Second.

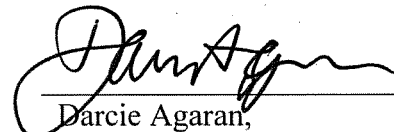
Chair Apisa: All in favor? (Unanimous voice vote) Any opposed? (None) Motion carried 5:0. We will adjourn to Executive Session.

The Commission entered into Executive Session at 10:59 a.m.

**ADJOURNMENT**

Chair Apisa adjourned the meeting at 12:13 p.m.

Respectfully submitted by:

  
\_\_\_\_\_  
Darcie Agaran,  
Commission Support Clerk

( ) Approved as circulated (add date of meeting approval)

( ) Approved as amended. See minutes of \_\_\_\_\_ meeting.